G. R. S. IX-5]

Previous references.

Legis 13-11-19
- 5-05 (3-12)

1916. 17

(Legis)

Later references.

File No. 12-16

Serial Nos (1)

P-10

GENERAL AND REVENUE SECRETARIAT.

Received No.
May be destroyed.
23/9/32

Serial No. (1)

Part B for Oct 16

SUBJECT.

Amendment of the Mysore Mines Regn 1906.

W D 88—GPB—50,000—24-7-16

14/11/16

G. R. S. 11] 1916.

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 12

FILE HEADING.

Amendment of the Mysore Mines Regulation, 1906.

From

The Government Advocate

No. 390 Dated 24/6/16 Received 27/6

Diary No.	Enclos.	Spare Copies.	Serial No.
L 3232			1

BRIEF ABSTRACT OF LETTER.

Forwards a copy of the order passed by the Chief Court in Cr Revision Petition No 163 of 1915-16 containing an observation on the defects in sec: 17 of the Mines Regn 1906 as revised by Regn IX of 1915.

NOTES AND ORDERS.

1

Subd for orders.

The chief court have ~~also~~ recommended amending sec: 17 so as to define the powers under the sec: of the Superintendent of Police and of

NOTES—First Sheet.

J 3232

(2

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 12 of 1916.

Serial No.

the Dt Magistrate more clearly. The point for amendment is whether the order of the Supdt declaring a person as a suspect could be appealed against directly to ~~before~~ the Dt Magistrate or whether when a person is declared a suspect he has to move the Superintendent himself in the first instance for cancellation of the order and if he does not cancel then appeal to the Dt Magistrate or both courses may be followed

CB 15/10/16

2) Please put up the A Rules regarding the Mines Regulation.

3) Subd. with Legis 5-05 (Sls 3-12) A and Legis 13-11 (Sls 1-19) A. Eg 16/10.

CB 20/10/16

NRL 4) The question as to the respective duties and powers of the Supt. & the District Magistrate was not raised when the Bill was under the original draft was prepared or when the Legislative Council. The true Construction of the Section appears to be that mentioned in para 4

NOTE—Contn. sheet.

J 3232

G. R. S. 12]

General and Revenue Secretariat. | Leg. File No. 12 of 1915. (3)

Serial No.

attested copy of the judgment. There seems to be no necessity at present to amend the Regulation. The limitation as to the time within which the order may be questioned before the Magistrate is likely to be availed of, and if there arises any doubt, the question is likely to be brought up again for consideration.

5) If approved, the papers will be filed.

Sd
30/10

430
1.11.16

Asst. Member

6) I agree

1/11

Secy.

Sd
1/11

Sd/11

NOTE—Contn. sheet.

GPB—70,000—17-12-15

No. 390
incl. one

Office of the Government Advocate in Mysore,

Bangalore dated, 24th June 1916.

DIARY No. J 2232

From

C. S. Doraswami Iyer Esq., B.A., B.L.,
Government Advocate in Mysore, Bangalore.

10-16
SECTION Cl. Sec.
No. 12-46
SPECIAL No. 1

To,

The Secretary to the Government of His Highness the Maharaja of Mysore, General Department.

Sir,

I have the honour to forward herewith a copy of the order passed by the Chief Court in Criminal Revision Petition No.163 of 1915-16 Mooraharairaju VS Government and to state that such action as Government may deem fit may be taken with reference to the observation of the learned Judges in the -- preultimate para of their order.

I have the honour to be,

Sir,

Your most obedient servant,

Government Advocate.

In the Chief Court of Mysore at Bangalore.

Wednesday, the 21st day of June 1916.

Sir Leslie C. Miller, K., Chief Judge,

The Hon'ble Mr. Justice J. Krishnaswami Iyer.

Criminal Revision Petition No: 103 of 1916-16

Doctor Kari Singh.....Petitioner..... Petitioner.

(By Mr. [illegible] Neelakanta)

The Government of Mysore.....Court.....Opponent.

(By Mr. T. Gopalaswami Iyer, Government Advocate.)

Criminal Revision Petition against the order of the District Magistrate of Kolar in Petition No: 4 of 1915-16 declining to interfere with the order of the Superintendent of Police, Kolar Gold Fields, dated the 13th March 1916.

This petition coming on for hearing on Friday, the 9th day of June 1916, the Court pronounced the following:-

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JUDGMENT

This is an application for the revision of an order made by the District Magistrate of Kolar refusing to cancel an order

ade by the Superintendent of Police of the Kolar Gold Fields under section 17 of the ~~Mysore~~ Mines Regulation of 1906 as amended by the last section of Regulation (1) of 1914.

That section gives power to the Superintendent of Police by an order in writing to expel from notified areas any person whose residence within such area is considered undesirable, and to the District Magistrate as well as to the Superintendent of Police the power to cancel or vary orders so made. Disobedience to the order so long as it is in force is punishable on conviction by a Magistrate (section 19).

The case appears to be the first that has been brought before the Court, and the learned Government Advocate contends that we have no jurisdiction to interfere in the case.

The question seems to be whether the order is made by the District Magistrate judicially that is as a Court, or is an order made by him as an executive officer of the Government.

It seems clear that the Superintendent's power is not the order of a Court which we could revise under the Code of Criminal Procedure, Chapter XXXIX dealing with conceded that position.

In

In argument in effect amounted to this that all orders made by a district registrar by virtue of powers conferred upon him are void and may be set aside by this court in the exercise of its judicial functions and can be revised by us if incorrect.

We entirely deny that there is authority for that view in the matter of licences which a district registrar is empowered by section 60 of the Police Ordinance to issue or refuse, and we are not prepared to hold that the Government is unable to confer a power on inferior courts which do not judicial upon district registrars.

Even if such a power is not a judicial power we entirely disagree with the view that we have no doubt on the point.

We do not think it necessary to consider the jurisdiction of the district registrar's Tribunal to decide whether or not the certificate of the Commissioner of Police is to be enforced but we desire to say that while we strike two letters out of the order set out in the matter of cancellation the district registrar gives powers and functions not

may be exercised without regard to the question whether the original order was or was not a proper order when made.

The true view seems to be that the District Magistrate as an officer of the Government responsible for the peace of his District equally with the Superintendent of Police is given the power to take fresh action if any order issued by the other officer is or is not one of which the continued enforcement is required in the last resort by the presence of the notified area and that in arriving at the decision on that point he does not sit as a court of justice to determine any question as to the legal rights of any person against whom the order is made.

It may be that if the order is illegal the Magistrate would not punish a person brought before him for disobedience to it. We do not think it desirable to pronounce any opinion as to what order if any purporting to be made under the section can be disobeyed with impunity: but the order being enforcible only through the judgment of a Magistrate's court the person against whom it is made is not left entirely at the mercy of the executive officers.

A person who wishes to test the matter by disobedience

importance to persons residing in the notified areas it would be well if the powers of the Superintendent and the District Judge were more clearly defined than they are in section 17 of the Regulation.

Mr. Obeyesekere did not contend that this Court has any general jurisdiction to direct public officers to do their legal duties in a legal manner; and holding that the District Judge's order is not one which we can revise under the Code of Criminal Procedure, we must hold that we cannot interfere.

(Sd) Leslie C. Miller.

C O P Y.

(Sd. T. Paramasiva Iyer.

Government Advocate.